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6 IN THE UNITED STATES DISTRICT COURT  
7 FOR THE DISTRICT OF ARIZONA  
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9 Lexington Insurance Company, )

No. CV 12-2119-PHX-JAT

10 Plaintiff, )

**ORDER**

11 vs. )

12 )  
13 Scott Homes Multifamily, Inc., Silverbell )  
290 Limited Partnership, )

14 Defendants. )  
15 )

16 “Inquiring whether the court has jurisdiction is a federal judge’s first duty in every  
17 case.” *Belleville Catering Co. v. Champaign Market Place, L.L.C.*, 350 F.3d 691, 693 (7<sup>th</sup>  
18 Cir. 2003). In this case, the complaint fails to sufficiently plead jurisdiction.

19 First, the complaint cites 28 U.S.C. §§ 2201-2202 as a basis for jurisdiction.  
20 However, the Declaratory Judgment Act is not a basis for jurisdiction; thus, the complaint  
21 must establish a basis for federal subject matter jurisdiction independent from the  
22 Declaratory Judgment Act. *Skelly Oil Co. v. Phillips Petroleum Co.*, 339 U.S. 667, 672-674  
23 (1950). Second, the complaint cites 28 U.S.C. § 1335, which is the interpleader statute.  
24 However, nothing in the complaint suggests Plaintiff is attempting to interplead funds with  
25 the Court.

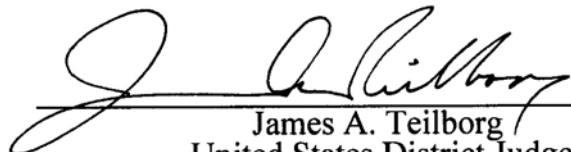
26 Finally, the complaint cites 28 U.S.C. § 1332, diversity jurisdiction. However, the  
27 complaint fails to plead the citizenship of Defendant Scott Homes, Inc. *See Hertz Corp. v.*  
28 *Friend*, 130 S. Ct. 1181, 1192; - - - U.S. - - - (2010) (discussing the citizenship of a

1 corporation). It also fails to plead the citizenship of Defendant Silverbell 290 Limited  
2 Partnership. *See Carden v. Arkoma Associates*, 494 U.S. 185, 195-96 (1990) (discussing the  
3 citizenship of limited partnerships). The complaint also fails to plead the citizenship of  
4 Timberline Village Corporation. *See Hertz Corp.*, 130 S. Ct. at 1192 (discussing the  
5 citizenship of a corporation).

6 Based on the foregoing,

7 **IT IS ORDERED** that by December 19, 2012, Plaintiff shall file a supplement to the  
8 complaint fully alleging federal subject matter jurisdiction, or this case will be dismissed,  
9 without prejudice, for lack of federal subject matter jurisdiction.

10 DATED this 27th day of November, 2012.

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14 James A. Teilborg  
United States District Judge  
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